

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

ALICE A. RUTH,
Plaintiff,
vs.
CARSON SMITHFIELD, LLC,
Defendant.

COMPLAINT

INTRODUCTION

1. Plaintiff Alice A. Ruth brings this action to secure redress from unlawful collection practices engaged in by defendant Carson Smithfield, LLC. Plaintiff alleges violation of the Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. (“FDCPA”).

VENUE AND JURISDICTION

2. This Court has jurisdiction under 15 U.S.C. §1692k (FDCPA), 28 U.S.C. §1331 and 28 U.S.C. §1337.

3. Venue and personal jurisdiction in this District are proper because:
 - a. Defendant's collection communications were received by plaintiff strict;
 - b. Defendant does or transacts business within this District.

PARTIES

4. Plaintiff Alice A. Ruth is an individual who resides in Whiteside County, Illinois.

5. Defendant Carson Smithfield, LLC is a limited liability company organized under Delaware law with offices at 101 Crossways Park Drive West, Woodbury, New York 11797 and 225 West Station Square Drive, Pittsburgh, PA 15219. It does business in Illinois. Its registered agent and office is Illinois Corporation Service Co., 801 Adlai Stevenson Drive, Springfield, IL

62703.

6. The sole manager of Carson Smithfield, LLC is CardWorks, Inc., an inactive New York corporation also located at 101 Crossways Park Drive West, Woodbury, New York 11797. CardWorks, Inc., also owns 100% of the equity of Carson Smithfield, LLC.

7. The principal executive officer of CardWorks, Inc., is Donald M. Berman.

8. Cardworks Servicing, LLC is a limited liability company organized under Delaware law with offices at 101 Crossways Park Drive West, Woodbury, NY 11797 and 225 West Station Square Drive, Pittsburgh, PA 15219.

9. The principal executive officer of Cardworks Servicing, LLC is the same Donald M. Berman.

10. Carson Smithfield, LLC is engaged in the business of using the mails and telephone to collect consumer debts originally owed to others.

11. Carson Smithfield, LLC is a debt collector as defined in the FDCPA.

12. Cardworks Servicing, LLC is or was also engaged in the business of using the mails and telephone to collect consumer debts originally owed to others.

13. Cardworks Servicing, LLC is or was also a debt collector as defined in the FDCPA.

FACTS

14. This action concerns attempts to collect a Merrick Bank credit card debt incurred for personal, family or household purposes and not for business purposes.

15. By letter of Feb. 26, 2010, plaintiff, by counsel, notified Cardworks Servicing, LLC that plaintiff was represented by counsel with respect to such debt. A copy of the letter and certified mail receipt is attached as Exhibit A.

16. On or about March 26, 2010, Cardworks Servicing, LLC sent the letter attached as Exhibit B.

17. Exhibit B is a form letter which both Cardworks Servicing, LLC and Carson

Smithfield, LLC used to evade complying with verification requests and requests for cessation of communications. See Exhibit C.

18. By letter of April 6, 2010, plaintiff, by counsel, again notified Cardworks Servicing, LLC that plaintiff was represented by counsel with respect to such debt. A copy of the letter and certified mail receipt is attached as Exhibit D.

19. On or about August 13, 2012, Carson Smithfield, LLC sent plaintiff, directly, the letter attached as Exhibit E, seeking to collect the same debt.

20. Because of the relationship of Carson Smithfield, LLC and Cardworks Servicing, LLC, Carson Smithfield, LLC was charged with knowledge that plaintiff was represented.

21. By letter of September 7, 2012, plaintiff, by counsel, notified Carson Smithfield, LLC that plaintiff was represented by counsel with respect to such debt. A copy of the letter and certified mail receipt is attached as Exhibit F.

22. On or about September 28, 2012, Cardworks Servicing, LLC sent the letter attached as Exhibit G.

23. On or about September 19, 2012, the purported creditor, Merrick Bank, sent plaintiff, directly, the letter attached as Exhibit H, suggesting possible “legal action” to collect the debt.

24. The debt is long past the five-year statute of limitations.

COUNT I – FDCPA

25. Plaintiff incorporates paragraphs 1-24.

26. Defendant violated 15 U.S.C. §1692c by contacting a represented party directly.

27. Section 1692c provides:

§ 1692c. Communication in connection with debt collection

(a) Communication with the consumer generally. Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt—

... (2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; ...

WHEREFORE, the Court should enter judgment in favor of plaintiff and against defendant for:

- (1) Statutory damages;
- (2) Attorney's fees, litigation expenses and costs of suit;
- (3) Such other and further relief as the Court deems proper.

s/Daniel A. Edelman
Daniel A. Edelman

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NOTICE OF LIEN AND ASSIGNMENT

Please be advised that we claim a lien upon any recovery herein for 1/3 or such amount as a court awards. All rights relating to attorney's fees have been assigned to counsel.

s/Daniel A. Edelman
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